

In the United States Court of Federal Claims

No. 16-950C, 17-2017C, 18-35C, 18-80C, 18-522C, 18-677C
(consolidated)

(Filed: May 15, 2018)

CB&I AREVA MOX SERVICES, LLC,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

CONSOLIDATION AND SCHEDULING ORDER

Before the Court are six separate actions relating to Plaintiff's Contract No. DE-AC02-99CH10888 for the design, construction, and operation of a Mixed-Oxide Fuel Fabrication Facility (MFFF) at the Savannah River Nuclear Site near Aiken, Carolina. The docket numbers in our Court are Nos. 16-950C, 17-2017C, 18-35C, 18-80C, 18-522C, and 18-677C. Plaintiff is represented in the six cases by multiple law firms and counsel of record. The six cases present a myriad of cost and contractual issues, some separate and some related, but all arising under the same referenced contract. Plaintiff has asserted a desire to move quickly on these cases due to Defendant's refusal to allow deferment of a \$35 million government claim, requiring Plaintiff's payment of this amount to the United States in advance of a judicial determination.

On May 2, 2018, Defendant filed a motion to consolidate the five CB&I cases pending at that time, but CB&I filed a sixth complaint on May 11, 2018. In docket no. 17-2017C, CB&I filed a response in opposition to Defendant's motion on May 14, 2018. Rather than waiting for further oppositions from Plaintiff in the other cases, or replies from Defendant, the Court understands the parties' positions and will move ahead with this Consolidation Order. In the interests of judicial efficiency, and Plaintiff's desire to proceed expeditiously, consolidation will have the effect of promoting a just and prompt resolution

of these matters. All future filings shall be made under docket no. 16-950C, which shall be designated as the lead case.

The Court will set aside a four-week period during April 1-26, 2019 for the trial of these consolidated cases. Within ten days from the date of this Order, Plaintiff shall designate one person as its lead counsel in these cases, although other counsel are welcome to participate as Plaintiff deems appropriate. Plaintiff shall file a Notice of Lead Counsel with the Court within the referenced ten-day period. Henceforth, the designated lead counsel shall be responsible for the filing of all pleadings on behalf of Plaintiff.

Also within ten days from the date of this Order, the parties jointly shall submit a proposed schedule providing for the completion of all fact and expert discovery by not later than February 1, 2019. The parties may include interim completion dates as they deem appropriate, but at a minimum shall include dates for the completion of fact discovery and expert discovery. Completion of discovery by February 1, 2019 will allow a two-month period (February 1 – April 1, 2019) for the exchange and filing of witness lists, exhibit lists, stipulations of fact, and pretrial memoranda of contentions of fact and law before the commencement of trial. These filings and their due dates will be addressed in a separate pretrial order to be issued by the Court.

This Consolidation and Scheduling Order does not preclude the Court's resolution of any matter in these cases through a preliminary or dispositive motion, some of which currently are pending.

IT IS SO ORDERED.

s/ Thomas C. Wheeler
THOMAS C. WHEELER
Judge